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POSITION STATEMENT OF THE CONNECTICUT TRIAL LAWYERS ASSOCIATION IN SUPPORT OF H.B. 5249
AN ACT CONCERNING TIMELY MEDICAL TREATMENT FOR INJURED WORKERS

The Connecticut Trial Lawyers strongly support passage of S.B. 5249, AAC Timely Medical Treatment for Injured Workers.

Employers are permitted to adopt treatment plans which limit the doctors injured workers can use. As long as a plan provides 5 doctors in two medical practices other specialists can be excluded. When an employer tells its workers which doctors must be used and then refuses to authorize treatments recommended by the doctor selected that is unfair, unreasonable and either delays the worker's return to employment or forces a return without proper treatment, risking further injury and poor outcomes.

HB 5249 provides that when the employer restricts the doctors the claimant must use or agrees that a particular doctor shall be the treater then treatment recommended by that doctor or a doctor to whom a worker has then been sent for particular treatment is presumed reasonable and necessary. The Act provides that if the employer contests treatment recommended by such doctors it shall cite evidence to support the denial of treatment and/or promptly (within 30 days) schedule an "independent" medical exam pursuant to 31-294f if it wishes to secure one to justify the denial of treatment.

The proposal entitles a worker to 100% of after-tax wages if such recommended treatment is found reasonable and necessary as the delay serves only to lengthen the time the injured worker is out of the workforce. The employer has already secured economic advantage by selecting

doctors of its choosing. The employee should not be doubly penalized by having a return to gainful employment delayed awaiting processing of treatment recommended by employer-approved physicians as well as enduring whatever restrictions are unremedied during the period of delay. The bill provides that if an employer merely delays treatment, does not timely request an examination by another physician of its choosing, and a determination is made by a Commissioner that the treatment recommended was reasonable then the employee will be entitled to attorney's fees for that proceeding. This minimizes incentive for employers to unreasonably delay treatment without supporting evidence.

Presently the only method by which an injured worker can document the nature of an employer requested exam is to hire a physician to attend. This means paying a doctor both to attend the employer-requested exam and then to testify. The bill permits a worker to record the exam so that "quickie" exams that omit facets of examination or are conducted by physicians demonstrating that their opinions have been pre-formulated can be documented without unnecessary expense. HB5249 does not restrict the ability of an employer to select any physician it chooses to conduct an exam pursuant to 31-294f or restrict the nature of the exam to be conducted.

More and more delay is becoming a reality for injured workers. More and more hearings are being required before the Workers Compensation Commission to deal with treatment issues and delays in treatment. HB5249 will encourage prompt processing of claims and scheduling of medical exams, reducing the volume of unnecessary hearings and the workload of the Workers Compensation Commission. HB5249 should assure that necessary treatment is promptly provided; issues are quickly joined when treatment is reasonably disputed and workers return to the workplace more quickly.